

CHAPTER X

LIABILITY WITHOUT FAULT IN CERTAIN CASES

140. Liability to pay compensation in certain cases on the principle of no fault-

(1) Where death or permanent disablement of any person has resulted from an accident arising out of the use of motor vehicle or motor vehicles, the owner of the vehicle shall, or, as the case may be, the owners of the vehicles shall, jointly and severally, be liable to pay compensation in respect of such death or disablement in accordance with the provisions of this section.

(2) The amount of compensation which shall be payable under sub-section (1) in respect of the death of any person shall be a fixed sum of 2[fifty thousand rupees] and the amount of compensation payable under that sub-section in respect of the permanent disablement of any person shall be a fixed sum of 2[twenty-five thousand rupees.]

(3) In any claim for compensation under sub-section (1), the claimant shall not be required to plead and establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act, neglect or default of the owner or owners of the vehicles concerned or of any other person.

(4) A claim for compensation under sub-section (1) shall not be defeated by reason of any wrongful act, neglect or default of the person in respect of whose death or permanent disablement the claim has been made nor shall the quantum of compensation recoverable in respect of such death or permanent disablement be reduced on the basis of the share of such person in the responsibility for such death or permanent disablement.

3[(5) Notwithstanding anything contained in sub-section (2) regarding death or bodily injury to any person, for which the owner of the vehicle is liable to give compensation for relief, he is also liable to pay compensation under any other law for the time being in force.

Provided that the amount of compensation payable under this section or under section 163.]

141. Provisions as to other right to claim compensation for death or permanent disablement-

(1) The right to claim compensation under section 140 in respect of death or permanent disablement of any person shall be in addition to 4[any other right, except the right to claim under the scheme referred to section 163A (such other right thereafter) in this section referred to as the right on the principle of fault) to claim compensation in respect thereof under any other provision of this Act or of any other law for the time being in force.

(2) A claim for compensation under section 140 in respect of death or permanent disablement of any person shall be disposed of as expeditiously as possible and where compensation is claimed in respect of such death or permanent disablement under section 140 and also in pursuance of any right on the principle of fault, the claim for compensation under section 140 shall be disposed of as aforesaid in the first place.

(3) Notwithstanding anything contained in sub-section (1), where in respect of the death, or permanent disablement of any person, the person liable to pay compensation under section 140 is also liable to pay compensation in accordance with the right on the principle of fault, the person so liable shall pay the first mentioned compensation and-

(a) if the amount of the first-mentioned compensation is less than the amount of the second-mentioned compensation, he shall be liable to pay (in addition to the first-mentioned compensation) only so much which it exceeds the first-mentioned compensation;

(b) if the amount of the first-mentioned compensation is equal to or more than the amount of the second-mentioned compensation, he shall not be liable to pay the second-mentioned compensation.

142. Permanent disablement-

For the purposes of this Chapter, permanent disablement of a person shall be deemed to have resulted from an accident of the nature referred to in sub-section (1) of section 140 if such person has suffered by reason of the accident, any injury or injuries involving-

- (a) permanent privation of the sight of either eye or the hearing of either ear, or privation of any member or joint; or
- (b) destruction or permanent impairing of the powers of any member or joint; or
- (c) permanent disfiguration of the head or face.

143. Applicability of Chapter to certain claims under Act 8 of 1923-

The provisions of this Chapter shall also apply in relation to any claim for compensation in respect of death or permanent disablement of any person under the Workmen's Compensation Act, 1923 resulting from an accident of the nature referred to in sub-section (1) of section 140 and for this purpose, the said provisions shall, with necessary modifications, be deemed to form part of that Act.

144. Overriding effect-

The provisions of this Chapter shall have effect notwithstanding anything contained in any other provisions of this Act or of any other law for the time being in force.

CHAPTER XI

INSURANCE OF MOTOR VEHICLES AGAINST THIRD PARTY RISKS

45. Definitions-In this Chapter,-

- (a) "authorised insurer" means an insurer for the time being carrying on general insurance business in India under the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), and any Government insurance fund authorised to do general insurance business under that Act;

(b) "certificate of insurance" means a certificate issued by an authorised insurer in pursuance of sub-section (3) of section 147 and includes cover note complying with such requirement as may be prescribed, and where more than one certificate has been issued in connection with a policy, or where a copy of a certificate that copy, as case may be;

(c) "liability". wherever used in relation to the death of or bodily injury to any person, includes liability in respect thereof under section 140;

(d) "policy of insurance" includes 'certificate of insurance';

(e) "property" includes goods carried in the motor vehicle, road, bridge, culverts, causeways, trees, posts and mile-stones;

(f) "reciprocating country" means any such country as may on the basis of reciprocity be notified by the Central Government in the Official Gazette to be a reciprocating for the purpose of this Chapter;

(g) "third party" includes the Government.

146. Necessity for insurance against third party risk-

(1) No person shall use, except as a passenger, or cause or allow any other person to use, a motor vehicle in a public place, unless there is in force in relation to the use of the vehicle by that person or that person, as the case may be, a policy of insurance complying with the requirement of this Chapter.

1 [Provided that in the case of a vehicle carrying, or meant to carry, dangerous or hazardous goods, there shall also be a policy of insurance under the Public Liability Insurance Act, 1991 (6 of 1991)].

Explanation--A person driving a motor vehicle merely as a paid employee, while there is in force in relation to the use of the vehicle no such policy as is required by this sub-section not be deemed to act in contravention of the sub-section unless he knows or has reason to believe that there is no believe that there is no such policy in force.

(2) Sub-section (1) shall not apply to any vehicle owned by the Central Government or a State Government and used for Government purposes unconnected with any commercial enterprise.

(3) The appropriate Government may, by order, exempt from the operation of sub-section (1) any vehicle owned by any of the following authorities, namely--

(a) the Central Government or a State Government, if the vehicle issued for Government purposes connected with any commercial enterprise;

(b) any local authority;

(c) any State transport undertaking.

Provided that no such order shall be made in relation to any such authority unless a fund has been established and is maintained by that authority in accordance with the rules made in that behalf under this Act for meeting any liability person in its employment may incur to third parties.

Explanation--For the purposes of this sub-section," appropriate Government" means the Central Government or a State Government, as the case may be, and--

(i) in relation to any corporation or company owned by the Central Government or any State Government, means the Central Government or that State Government;

(ii) in relation to any corporation or company owned by the central Government and one or more State Government, means the Central Government;

(iii) in relation to any other State transport undertaking or any local authority, means that Government which has control over that undertaking or authority.

147. Requirements of policies and limits of liability--

(1) In order to comply with the requirements of this Chapter, a policy of insurance must be a policy which--

(a) is issued by a person who is an authorised insurer; and

(b) insures the person or classes of persons specified in the policy to the extent specified in sub-section-(2)

(i) against any liability which may be incurred by him in respect of the death of or bodily injury to any person, including owner of the goods or his authorised representative carried in the vehicle] or damage to any property of a third party caused by or arising out of the use of the vehicle in a public place;

(ii) against the death of or bodily injury to any passenger of a public service caused by or arising out of the use of the vehicle in a public place.

Provided that a policy shall not be required-

(i) to cover liability in respect of the death, arising out of and in the course of his employment, of the employee of a person insured by the policy or in respect of bodily injury sustained by such an employee arising out of and in the course of his employment other than a liability arising under the Workmen's Compensation Act, 1923 (8 of 1923), in respect of the death, or bodily injury to, any such employee--

(a) engaged in driving the vehicle, or

(b) if it is public service vehicle engaged as a conductor of the vehicle or in examining tickets on the vehicle, or

(c) if it is a good carriage, being in the vehicle, or

(ii) to cover any contractual liability.

Explanation-For the removal of doubts, it is hereby declared that the death of or bodily injury to any person or damage to any of a third party shall be deemed to have been caused by or to have arisen out of the use of a vehicle in a public place notwithstanding that the person who is dead or injured or the property which is damaged was not in

a public place at the time of the accident, if the act or omission which led to the accident occurred in a public place.

(2) Subject to the provision to sub-section (10), a policy of insurance referred to in sub-section (1) shall cover any liability incurred in respect of any accident, upto the following limits, namely--

(a) save as provided in clause (b), the amount of liability incurred ;

(b) in respect of damage to any property of a third party, limit of rupees six thousand :

Provided that any policy of insurance issued with any limited liability and in force, immediately before the commencement of this Act, shall continue to be effective for a period of four months after such commencement or till the date of expiry of such policy whichever is earlier.

(3) A policy shall be of no effect for the purposes of this Chapter unless and until there issued by the insurer in favour of the person by whom the policy is effected a certificate of insurance in the prescribed form and containing the any condition subject to which the policy is issued and of any other prescribed matters; and different forms, particulars and matters may be prescribed in different cases.

(4) Where a cover note issued by the insurer under the provisions of this Chapter or the rules made thereunder is not followed by a policy of insurance within the prescribed time, the insurer shall, within seven days of the expiry of the period of the validity of the cover note, notify the fact to the registering authority in whose records the vehicle to which the cover note relates has been registered or to such other authority as the State Government may prescribe.

(5) Notwithstanding anything contained in any law for the time being in force, an insurer issuing a policy of insurance under this section shall be liable to indemnify the person or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of that person or those classes of persons.

148. Validity of Policies of insurance issued in reciprocating Countries-

Where, in pursuance of an arrangement between India and any reciprocating country, the motor vehicle registered in the reciprocating country operates on any route or within any area common to the two countries and there is in force

in relation to the use of the vehicle in the reciprocating country, a policy of insurance complying with the requirements of the law of insurance in force in that country, then, notwithstanding anything contained in section 147 but subject to any rules which may be made under section 164, such policy of insurance shall be effective throughout the route or area in respect of which, the arrangement has been made, as if the policy of insurance had complied with the requirements of this Chapter.

149. Duty of insurer to satisfy judgements and awards against persons insured in respect of third party risks--

(1) If, after a certificate of insurance has been issued under sub-section (3) of section 147 in favour of the person by whom a policy has been effected, judgement or award in respect of any such liability as is required to be covered by a policy under clause (b) of sub-section (1) of section 147 (being a liability covered by the terms of the policy) 1[or under the provisions of section 163A] is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy the insurer shall, subject to the provisions of this section, pay to the person entitled to the benefit of the decree any sum not exceeding the sum assured payable thereunder, as if he were the judgement debtor, in respect of the liability of interest on that sum by virtue of any enactment relating to interest on judgement.

(2) No sum shall be payable by an insurer under sub-section (1) in respect of any judgement or award unless, before the commencement of the proceeding in which the judgement or award is given the insurer has notice through the Court or, as the case may be, the Claims Tribunal of the bringing of the proceedings, or in respect of such judgement or award so long as execution is stayed thereon pending an appeal; and an insurer to whom notice of the bringing of any such proceedings is so given shall be entitled to be made party there to and to defend the action on any of the following grounds, namely--

(a) that there has been a breach of a specified condition of the policy, being one of the following condition, namely--

(i) a condition excluding the use of the vehicle--

(a) for hire or reward, where the vehicle is on the date of the contract of insurance a vehicle not covered by a permit

to ply for hire or reward, or

(b) for organised racing and speed testing, or

(c) for a purpose not allowed by the permit under which the vehicle is used, where the vehicle is a transport vehicle, or

(d) without side-car being attached where the vehicle is a motor cycle; or

(ii) a condition excluding driving by a named person or persons or by any person who is not duly licensed, or by any person who has been disqualified for holding or obtaining a driving license during the period of disqualification; or

(iii) (a) a condition excluding liability for injury caused or contributed to by conditions of war, civil war, riot or civil commotion; or

(b) that the policy is void on the ground that it was obtained by the non-disclosure of a material fact or by a representation of fact which was false in some material particular.

(3) Where any such judgement as is referred to in sub-section (1) is obtained from a Court in a reciprocating country and in the case of a foreign judgement is, by virtue of the provisions of section 13 of the Code of Civil Procedure, 1908 (5 of 1908), conclusive as to any matter adjudicated upon by it, the insurer (being an insurer registered under the Insurance Act, 1938 (4 of 1938), and whether or not he is registered under the corresponding law of the reciprocating country) shall be liable to the person entitled to the benefit of the decree in the manner and to the extent specified in sub-section (1), as if the judgement were given by a Court in India.

Provided that no sum shall be payable by the insurer in respect of any such judgement unless, before the commencement of the proceedings in which the judgement is given, the insurer had notice through the Court concerned of the bringing of the proceedings and the insurer to whom notice is so given is entitled under the corresponding law of the reciprocating country, to be made a party to the proceedings and to defend the action on grounds similar to those specified in sub-section (2)

(4) Where a certificate of insurance has been issued under sub-section (3) of section 147 to the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured thereby by reference to any conditions other than those in clause (b) of sub-section (2) shall, as respects such liabilities as are required to be covered by a policy under clause (b) sub-section (1) of section 147, be of no effect.

Provided that any sum paid by the insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only this sub-section shall be recoverable by the insurer from that person.

(5) If the amount which a insurer becomes liable this section to pay in respect of a liability incurred by a person insured by a policy exceeds the amount for which the insurer would apart from the provision of this section be liable under the policy in respect of that liability, the insurer shall be entitled to recover the excess from that person.

(6) In this section the expression " material fact" and "material particular" means, respectively a fact or particular of such a nature as to influence the judgement of a prudent insurer in determining whether he will take the risk and, if so, at what premium and on what conditions, and the expression "liability covered by the terms of the policy" means a liability which is covered by the policy or which would be so covered but for the that the insurer is entitled to avoid or cancel or has avoided or cancelled the policy.

(7) No insurer to whom the notice referred to in sub-section (2) or sub-section (3) has been given shall be entitled to avoid his liability to any person entitled to the benefit of any such judgement or award as is referred to in sub-section (1) or in such judgement as is referred to in sub-section (3) otherwise than in the manner provided for in sub-section (2) or in the corresponding law of the reciprocating country, as the case may be.

Explanation-- For the purposes of this section," Claims Tribunal" means a Claims Tribunal constituted under section 165 and "award" means an award made by that Tribunal under section 168.

150. Rights if third parties against insurers on insolvency of the insured--

(1) Where under any contract of insurance effected in accordance with the provisions of this Chapter, a person is insured against liabilities which he may incur to third parties, then--

(a) in the event of the person becoming insolvent or making a composition or arrangement with his creditors, or

(b) where the insured person is a company, in the event of a winding up order being made or a resolution for a voluntary winding up being passed with respect to the company or of a receiver or manager of the company's business or undertaking being duly appointed, or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the charge. if, either before or after that event, any such liability is incurred by the insured person, his rights against the insurer under the contract in respect of the liability shall notwithstanding anything to the contrary in any provision of law, be transferred to and vest in the third party to whom the liability was so incurred.

(2) Where an order for the administration of the estate of a deceased debtor is made according to the law of insolvency, then, if any debts provable in insolvency is owing by the deceased in respect of a liability to a third party against which he was insured under a contract of insurance in accordance with the provisions of this Chapter, the deceased debtor's rights against the insurer in respect of that liability shall, notwithstanding anything to the contrary in any provision of law, be transferred to and vest in the person to whom the debt is owing.

(3) Any condition in a policy issued for the purposes of this Chapter purporting either directly or indirectly to avoid the policy or to alter the rights of the parties thereunder upon the happening to the insured person of any of the events specified in clause (a) or clause (b) of sub-section (1) or upon the making of an order for the administration of the estate of a debtor according to the law of insolvency shall be of no effect.

(4) Upon a transfer under sub-section (1) or sub-section (2), the insurer shall be under the same liability to the third party as he would have to the insured person, but--

(a) if the liability of the insurer to the insured person exceeds the liability of the insured person to the third party, nothing in this Chapter shall affect the rights of the insured person against the insurer in respect of the excess and

(b) if the liability of the insurer to the insured person is less than the liability of the insured person to the third party, nothing in this Chapter shall affect the rights of the third party against the insured person in respect of the balance.

151. Duty to give information as to insurance--

(1) No person against whom a claim is made in respect of any liability referred to in clause (b) of section 147 shall on demand by or on behalf of the person making the claim refuse to state provisions of this Chapter, or would have been so insured if the insurer had not avoided or cancelled the policy, nor shall he refuse, if he was or would have been so insured to give such particulars with respect to that policy as were specified in the certificate of insurance issued in respect thereof.

(2) In the event of any person becoming insolvent or making a composition or arrangement with his creditors or in the event of an order being made for the administration with his creditors or in the event of an order being made for the administration of the estate of a deceased person according to the law of insolvency, or in the event of a winding up order being made or a resolution for a voluntary winding up being passed with respect to any company of a receiver or manager of the company's business or undertaking being duly appointed or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge on debtors, personal representative of the deceased debtors or company, as the case may be, or the official assignee or receiver in insolvency, trustee, liquidator, receiver or manager, or person in possession of the property to give at the request of any person to him as is covered by the provisions of this Chapter, such information as may reasonably be required by him for the purpose of ascertaining whether any rights have been transferred to and vested in him by section 150, and for the purpose of enforcing such rights, if any; and any such contract of insurance as purports whether directly or indirectly to avoid the contract or to alter the rights of the parties thereunder upon the giving of such information in the events aforesaid, or otherwise to prohibit or prevent the giving thereof in the said events, shall be of no effect.

(3) If, from the information given to any person in pursuance of sub-section (2) or otherwise, he has reasonable ground for suspecting that there have or may have been transferred to him under Chapter rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by the said sub-section on the persons therein mentioned.

(4) The duty to give the information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premiums, and other relevant documents in the possession or power of the person on whom the duty is

so imposed to be inspected and copies thereof to be taken.

152. Settlement between insurers and insured persons--

(1) No settlement made by an insurer in respect of any claim which might be made by a third party section 147 shall be valid unless such third party is a party to the settlement.

(2) Where a person who is insured under a policy issued for the purposes of this Chapter has become insolvent, or where, if such insured person is a company, a winding up order has been made or a resolution for a voluntary winding up has been passed with respect to the company, no agreement made between the insurer and the insured person after the liability has been incurred to a third party and after the commencement of the insolvency or winding up, as the case may be, nor any waiver, assignment or other disposition made to the insured person after the commencement aforesaid shall be effective to defeat the rights transferred to the third party under this Chapter, but those rights shall be the same as if no such agreement, waiver, assignment or disposition or payment has been made.

153. Saving in respect of section 150, 151 and 152--

(1) For the purposes of sections 150, 151 and 152 a reference to "liabilities to third parties" in relation to person insured under any policy of insurance shall not include a reference to any liability of that person in the capacity of insurer under some other policy of insurance.

(2) The provisions of sections 150, 151 and 152 shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of an amalgamation with another company.

154. Insolvency of insured persons not to affect liability of insured or claims by third parties-

Where a certificate of insurance has been issued to the person by whom a policy has been effected, the happening in relation to any person insured by the policy of any such event as is mentioned in sub-section (1) or sub-section (2) of section 150 shall, notwithstanding anything contained in this Chapter, not affect any liability of that person of the nature referred to in clause (b) of sub-section (1) of section 147; but nothing in this section shall affect any rights

against the insurer conferred under the provisions of sections 150, 151, and 152 on the person to whom the liability was incurred.

155. Effect of death on certain causes of action-

Notwithstanding anything contained in section 306 of the Indian Succession Act, 1925 (39 of 1925), the death of a person in whose favour a certificate of insurance had been issued, if it occurs after the happening of an even which has given rise to a claim under the provisions of this Chapter, shall not be a bar to the survival of any cause of action arising out of the said event against his estate or against the insurer.

156. Effect of certificate of insurance-

When an insurer has issued a certificate of insurance in respect of a contract of insurance between the insurer and the insured person, then--

(a) if and so long as the policy described in the certificate has not been issued by the insurer to insured, the insurer shall, as between himself and any other person except the insured, be deemed to have issued to the insured person a policy of insurance conforming in all respects with the description and particulars stated in such certificate; and

(b) if the insurer has issued to the insured the policy described in the certificate, but the actual terms of the less favourable to persons claiming under or by virtue of the policy against the insurer either directly or through the insured than the particulars of the insurer and any other person except the insured, be deemed to be in terms conforming in all respects with the particulars stated in the said certificate.

157. Transfer of certificate of Insurance--

(1) Where a person in whose favour the certificate of insurance has been issued in accordance with the provisions of this Chapter transfers to another person the ownership of the motor vehicle in respect of which such insurance was taken together with the policy of insurance relating thereto, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle¹³ is transferred with effect from the date of its transfer.

80[Explanation-- For the removal of doubts, it is hereby declared that such deemed transfer shall include transfer of rights and liabilities of the said certificate of insurance and policy of insurance.]

(2) The transferee shall apply within fourteen days from the date of transfer in the prescribed form to the insurer for making necessary changes in regard to the fact of transfer in the certificate of insurance and the policy described in the certificate in his favour and the insurer shall make the necessary changes in the certificate and the policy of insurance in regards to the transfer of insurance.

158. Production of certain, license and permit in certain cases--

(1) Any person driving a motor vehicle in any public shall, on being so required by a police officer in uniform authorised in this behalf by the State Government, produce--

- (a) the certificate of insurance;
- (b) the certificate of registration;
- (c) the driving license; and
- (d) in the case of transport vehicle, also the certificate of fitness referred to in section 56 and the permit.

relating to the use of vehicle.

(2) If, where owing to the presence of a motor vehicle in a public place an accident occurs involving death or bodily injury to another person, the driver of the vehicle does not at the time produce the certificates, driving license and permit referred to in sub-section (1) to a police officer, he shall produce the said certificates, license and permit at the police station at which he makes the report required by section 134.

(3) No person shall be liable to conviction under sub-section (1) or sub-section (2) by reason only of the failure to produce the certificate of insurance if, within seven days from the date on which its production was required under

sub-section (1), or as the case may be, from the date of occurrence of the accident, he produces the certificate at such police station as may be specified by him to the police officer who required its production or, as the case may be, to the police officer at the site of the accident or to the officer-in-charge of the police station at which he reported the accident.

Provided that except to such extent and with such modifications as may be prescribed, the provisions of this sub-section shall not apply to the driver of a transport vehicle.

(4) The owner of a motor vehicle shall give such information as he may be required by or on behalf a police officer empowered in this behalf by the State Government to give for the purpose of determining whether the vehicle was or was not being driven in contravention of section 146 and on any occasion when the driver was required under this section to produce his certificate of insurance.

(5) In this section, the expression "produce his certificate of insurance" means produce for examination the relevant certificate of insurance or such other evidence as may be prescribed that the vehicle was not being driven in contravention of section 146.

1[(6) As soon as any information regarding any accident involving death or bodily injury to any person is recorded or report under this section is completed by a police officer, the officer in charge of the police station shall forward a copy of the same within thirty days from the date of recording of information or, as the case may be, on completion of such report to the Claims Tribunal having jurisdiction and a copy thereof to the concerned insurer, and where a copy is made available to the owner, he shall also within thirty days of receipt of such report, forward the same to such Claims Tribunals and Insurer.]

159. Production of certificate of insurance on application for authority to use vehicle-

A State Government may make rule requiring the owner of any motor vehicle applying by payment of a tax or otherwise for authority to use the vehicle in a public place to produce such evidence as may be prescribed by those rules to the effect that either-

(a) on the date when the authority to use the vehicle comes into operation there will be in force the necessary policy

of insurance in relation to the use of the vehicle by the applicant or by other persons on his order or with his permission, or

(b) the vehicle is a vehicle to which section 146 does not apply.

160. Duty to furnish particulars of vehicle involved in accident-

A registering authority or the officer-in-charge of a police station shall, if so required by a person who alleges that he is entitled to claim compensation in respect of an accident arising out of the use of a motor vehicle, or if so required by an insurer against whom a claim has been made in respect of any motor vehicle, furnish to that person or to that insurer, as the case may be, on payment of the prescribed fee any information at the disposal of the said authority or the said police officer relating to the identification marks and other particulars of the vehicle at the time of the accident or was injured by it and the property if any, damaged in such form and within such time as the Central Government may prescribe.

161. Special provisions as to compensations in case of hit and run motor accident-

(1) For the purposes of this section, section 162 and section 163-

(a) "grievous hurt" shall have the same meaning as in the Indian Penal Code, 1860 (45 of 1860);

(b) "hit and run motor accident" means an accident arising out of the use of a motor vehicle or motor vehicles the identity whereof cannot be ascertained in spite of reasonable efforts for the purpose;

(c) "scheme" means the scheme framed under section 163.

(2) Notwithstanding anything contained in the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), or any other law for the time being in force or any instrument having the force of law, the General Insurance Corporation of India carrying on general insurance business in India shall provide for paying in accordance with the provisions of this Act and the scheme, compensation in respect of the death of, or grievous hurt to, persons resulting from hit and run motor accidents.

(3) Subject to the provisions of this Act and the scheme, there shall be paid as compensation-

(a) in respect of the death of any person resulting from a hit and run motor accident, a fixed sum of 1[twenty-five thousand rupees];

(b) in respect of grievous hurt to any person resulting from a hit and run motor accident, a fixed sum of 2[twelve thousand and five hundred rupees].

(4) The provisions of sub-section (1) of section 166 shall apply for the purpose of making applications for compensation under this section as they apply for the purpose of making applications for compensations referred to in that sub-section.

162. Refund in certain cases of compensation paid under section 161-

(1) The payment of compensation in respect of the death of, grievous hurt to, any person under section 161 shall be subject to the condition that if any compensation (hereafter in this sub-section referred to as the other compensation) or other amount in lieu of or by way of satisfaction of a claim for compensation is awarded or paid in respect of such death or grievous hurt under any other provisions of this Act or any other law or otherwise so much of the other compensation paid under section 161 shall be refunded to the insurer.

(2) Before awarding compensation in respect of an accident involving the death of, or bodily injury to, any person arising out of the use of a motor vehicle or motor vehicles under any provisions of this Act (other than section 161) or any other law, the Tribunal Court or other authority awarding such compensation shall verify as to whether in respect of such death or bodily injury compensation has already been paid under section 161 or an application for payment of compensation is pending under that section, and such Tribunal Court or other authority shall,-

(a) if compensation has already been paid under section 161, direct the person liable to pay the compensation awarded by it to refund to the insurer, so much thereof as is required to be refunded in accordance with the provision of sub-section (1);

(b) if an application for payment of compensation is pending under section 161 forward the particulars as to the compensation awarded by it to the insurer.

Explanation-For the purpose of this sub-section, an application for compensation under section 161 shall be deemed to be pending-

(i) if such application has been rejected, till the date of the rejection of the application, and

(ii) in any other case, till the date of payment of compensation in pursuance of the application.

163. Scheme for payment of compensation in case of hit and run motor accidents-

(1) The Central Government may, by notification in the Official Gazette, make a scheme specifying, the manner in which the scheme shall be administered by the General Insurance Corporation, the form, manner and the time within which applications for compensation may be made, the officers or authorities to whom such applications may be made, the procedure to be followed by such officers or authorities for considering and passing orders on such applications, and all other matters connected with, or incidental to, the administration of the scheme and the payment of compensation.

(2) A scheme made sub-section (1) may provide that-

(a) a contravention of any provisions thereof shall be punishable with imprisonment for such term as may be specified but in no case exceeding three months, or with fine which may extend to such amounts as may be specified but in no case exceeding five hundred rupees or with both;

(b) the powers, functions or duties conferred or imposed on any officer or authority by such scheme may be delegated with the prior approval in writing of the Central Government, by such officer or authority to any other officer or authority;

(c) any provisions of such scheme may operate with retrospective effect from a date not earlier than the date of establishment of the Solatium Fund under the Motor Vehicles Act, 1939 (4 of 1939), as it stood immediately before

the commencement of this Act:

Provided that no such retrospective effect shall be given so as to prejudicially affect the interest of any person who may be governed by such provision.

1[163A. Special provisions as to payment of compensation on structured formula basis-

(1) Notwithstanding anything contained in this Act or in any other law for time being in force or instrument having the force of law, the owner of the motor vehicle of the authorised insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.

Explanation-For the purposes of this sub-section, "permanent disability" shall have the same meaning and extent as in the Workmen's Compensation Act, 1923 (8 of 1923).

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person.

(3) The Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the Second Schedule.

163B. Option to file claim in certain cases-

Where a person is entitled to claim compensation under section 140 and section 163A, he shall file the claim under either of the said sections and not under both.]

164. Power of Central Government to make rules-

(1) The Central Government may make rules for the purpose of carrying into effect the provisions of this Chapter, other than the matters specified in section 159.

(2) Without prejudice to the generally of the foregoing power, such rules may provide for-

- (a) the forms to be used for the purposes of this chapter.
- (b) the making of applications for and issue of certificates of insurance;
- (c) the issue of duplicates to replace certificates of insurance lost, destroyed or mutilated;
- (d) the custody, production, cancellation and surrender of certificate of insurance,
- (e) the records to be maintained by insurers of policies of insurance issued under this Chapter;
- (f) the identification by certificates or otherwise of persons or vehicles exempted from the provisions of this Chapter;
- (g) the furnishing of information respecting policies of insurance by insurers;
- (h) adopting the provisions of this Chapter to vehicles brought into India by persons making only making only a temporary stay therein or to vehicles registered in a reciprocating country and operating on any route or within any area in India by applying those provisions with prescribed modifications;
- (i) the form in which and the time limit within which the particulars referred to in section 160 may be furnished; and
- (j) any other matter which is to be, or may be, prescribed.